

Supreme Court of Kentucky

ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND
PROCEDURE FOR THE 26TH JUDICIAL DISTRICT, HARLAN
DISTRICT COURT**

Upon recommendation of the District Judge of the 26th Judicial District,
Harlan District Court, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the Harlan District Court
are hereby approved. This order shall be effective as of the date of this Order,
and shall remain in effect until further orders of this Court.

Entered this the 25th day of July 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**HARLAN COUNTY DISTRICT COURT
26TH JUDICIAL DISTRICT
RULES OF PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY**

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These are the Local Rules of the Harlan District Court. These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Harlan District Court Rules.

102 Effective Date

The effective date of these rules shall be thirty (30) days after the Kentucky Supreme Court's approval.

103 Citation

These Rules shall be cited as Harlan District Court Practice and Procedure (HDPR).

104 Holidays

The Harlan County District Court will follow the Kentucky Court of Justice holiday schedule and may be obtained at the Harlan Court Clerk's Office or at <http://courts.ky.gov>.

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201 Regular Motion Hour Schedule

- A. Criminal arraignments shall be heard each Monday at 9:00 AM.
- B. Criminal motion hour, preliminary hearings and pretrial conferences shall be heard each Monday at 1:00 PM. All said motions shall be filed with the Harlan Circuit Court Clerk's office no later than 4 PM on the Thursday before the next said motion Hour. Pretrial conferences may also be heard on Tuesdays at 9:00 AM as scheduled by the Court.
- C. Juvenile Dependency Neglect and Abuse, Status Offense and Public Offense matters shall be heard each Wednesday at 9:00 AM. Temporary Removal Hearings as a result of the issuance of an Emergency Custody Order shall be heard within 72 hours of issuances of the emergency order, exclusive of holidays and weekends.
- D. Paternity and Child Support matters shall be heard on the 1st and 3rd Wednesday of each month at 1:30 PM.
- E. Bad Check Docket shall be heard on the 2nd Wednesday of each month at 1 PM.
- F. Domestic Violence matters shall be heard each Thursday at 8:30 AM.
- G. Small Claims matters shall be heard each Thursday at 10:00 AM.
- H. Probate matters shall be heard each Thursday at 1:00 PM. All probate motions shall be filed with the Harlan Circuit Court Clerk's office no later than 4 PM on the Tuesday before the next Probate Motion Hour.

- I. Civil motions and Evictions shall be heard each Thursday at 1:30 PM. All said civil motions shall be filed with the Harlan Circuit Court Clerk's office no later than 4 PM on the Tuesday before said Motion Hour.
- J. Show cause and contempt hearings for all fine collection matters shall be heard on the 1st Friday of each month at 1:30 PM.

202 Exceptions to Regular Motion Hour Schedule

Exceptions to the regular motion hour schedule shall be at the discretion of the District Judge.

203 Deadline for Filing Motions

Deadlines for filing motions are indicated in HDPR 201 above.

RULE 3 DOMESTIC VIOLENCE PROTOCOL & 24 HOUR ACCESS POLICY

301 Twenty-four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol

The Twenty-four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for Harlan County is located in Appendix 1 to these local rules and incorporated as if set out fully herein.

RULE 4 PATERNITY

See FCRPP 14 and 15. There are no local rules relating to Paternity in the Harlan District Court.

RULE 5 DEPENDENCY, NEGLECT, AND ABUSE

501 Procedure for Emergency Custody Orders

In Harlan County, to obtain an Emergency Custody Order as set forth in FCRPP 19:

- A. During normal working hours, 8:30 a.m. to 4:30 pm. Monday through Friday, excluding holidays, persons seeking an Emergency Custody Order (ECO), shall come to the Harlan Circuit Court Clerk's Office.
- B. After working hours and on weekends and holidays, a social worker shall contact the District Court judge or trial commissioner.

502 Petition

Any petition filed with this Court shall comply with the following conditions:

1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to initiating contact with the Child Support Division of the Harlan County Attorney's Office.

503 The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision

The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1) if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

RULE 6 STATUS OFFENSES

There are no local rules relating to Status Offense cases in the Harlan District Court. For uniform statewide rules of procedure see FCRPP 37 through 44.

RULE 7 MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

701 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and e-mail address of the attorney or party signing the paper. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

702 Protection of Personal Identifiers

- A. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in paragraph B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support

matters attendant to the case, or a person authorized to view the copy by specific orders of the court.

As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

- B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

The HDPR is hereby adopted by the Harlan District Court Judge:

 / Date 4-12-2012
Hon. Jeffrey J. Brock, District Judge

Appendix 1

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL HARLAN JUDICIAL CIRCUIT AND DISTRICT HARLAN COUNTY/COUNTIES

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the Harlan Circuit and District Courts.

I. Uniform Protocol for Handling Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the Harlan District Court to the Harlan Circuit Court when there is a dissolution/custody proceeding pending.
- D. Domestic violence cases are civil matters within the purview of CR 41.01 and there is not a "no-drop" policy in Harlan County.
- E. If the court determines there is a dissolution or custody matter pending in another circuit, the domestic violence case shall be transferred to the Circuit Court where that matter is pending. Pursuant to FCRPP 12, any emergency protective order issued in a case that is transferred shall continue and the summons shall be reissued by the initiating Harlan County Circuit or District Court or trial commissioner, pursuant to KRS 403.740(4), for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Harlan County Circuit Court Clerk's Office

Kentucky State Police, Post 10

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Kentucky State Police, Post 10

Harlan County Trial Commissioner

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the district judge unless a dissolution or child custody proceeding is pending in Circuit Court. If a dissolution or child custody proceeding is pending, the petition shall be presented to the Circuit Judge for consideration. If the Circuit Judge is unavailable, then the District Judge shall sign the EPO and schedule the matter for a hearing in Circuit Court.
- D. Upon receipt of a petition **after** regular business hours, weekends, and holidays the authorized agency/officer shall present the petition to the Harlan District Court Trial Commissioner which has been approved by the Supreme Court.
- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.
- F. The schedule for domestic violence hearings is as follows:

Domestic Violence matters shall be heard each Thursday at 8:30 AM in the Harlan District Court.

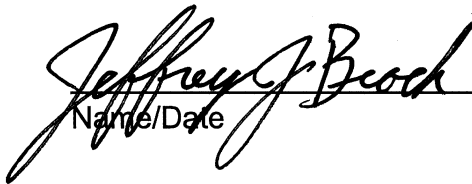
Domestic Violence matters in the Harlan Circuit Court shall be heard each Monday at 9:00 AM.

III. Contempt Proceedings

- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate civil contempt proceedings should contact Office of the Harlan Circuit Court Clerk, who will set the matter for a hearing on the next available Domestic Violence docket.
- C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:

 7-20-2012	_____
Name/Date	Name/Date